

LESSEE OF WILLIAM A. POWELL, AND OTHERS vs. JOHN HARMAN.

Under the statute of limitations of Tennessee, of seventeen hundred and ninety-seven, a possession of seven years is a protection only when held under a grant, or under valid mesne conveyances, or a paper title, which are legally or equitably connected with a grant; and a void deed is not such a conveyance as that a possession under it will be protected by the statute of limitations.

THIS case came before the Court from the circuit court of western Tennessee, on a certificate of division from the judges of that court.

In the court below, the lessor of the plaintiff showed a regular title to the lands in question, under a grant from the state of North Carolina; and proved that the defendant was in possession of the land in dispute.

The defendant proved, that he had been in peaceable possession of the land for more than seven years, holding adversely to the plaintiff, under a deed from the sheriff of Montgomery county, dated the 14th of April 1808, founded upon a sale for taxes; but which sale was admitted to be void, because the requisites of the law in regard to the sale of lands for taxes, had not been complied with.

Upon the trial of this cause, it occurred as a question, whether, under the statute of limitations of Tennessee of 1797, a possession of seven years is a protection only when held under a grant or under valid mesne conveyances, or a paper title, which are legally or equitably connected with a grant; or whether a possession under a void deed is such a conveyance, as that a possession under it will be protected by the statute of limitations. The judges being opposed upon this question, it was referred to this Court for their opinion.

Mr Chief Justice MARSHALL delivered the opinion of the Court.

The question now referred to this Court differs from that which was decided in Patton's lessee vs. Easton, 1 *Wheat*.

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476; in this, that the defendant who sets up a possession of seven years in bar of the plaintiff's title, endeavours to connect himself with a grant. The sale and conveyance however, by which this connexion is to be formed, are admitted to be void. The conveyance being made by a person having no authority to make it, is of no validity, and cannot connect the purchaser with the original grant. We are therefore of opinion that the law is for the plaintiff, and that this be certified as the opinion of this Court.

This cause came on to be heard on a certificate of division of opinion of the judges of the circuit court of the United States for the district of west Tennessee, and on the questions and points on which the said judges of that court were divided in opinion, and which have been certified to this Court; and was argued by counsel: on consideration whereof, this Court is of opinion, that under the statute of limitations of Tennessee, of seventeen hundred and ninety seven, a possession of seven years is a protection only when held under a grant or under valid mesne conveyances; or a paper title, which are legally or equitably connected with a grant; and that a void deed is not such a conveyance, as that a possession under it will be protected under the statute of limitations; all which is directed and ordered to be certified to the said circuit court of the United States, for the seventh circuit and district of west Tennessee.